

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TAMEEKA ANDERSON,

Plaintiff,
 -against-
 CITY OF NEW YORK,
 Defendant.

USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #: _____
 DATE FILED: 09/12/2022

22-CV-3990 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

Plaintiff Tameeka Anderson, by application dated September 6, 2022, requests appointment of *pro bono* counsel. (ECF No. 8.)

Unlike in criminal proceedings, the Court does not have the power to obligate attorneys to represent indigent *pro se* litigants in civil cases. *See Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 308–09 (1989). Instead, pursuant to 28 U.S.C. § 1915(e)(1), the Court may, at its discretion, order that the Pro Se Office request an attorney to represent an indigent litigant by placing the matter on a list circulated to attorneys who are members of the Court’s *pro bono* panel. *See Palacio v. City of New York*, 489 F. Supp. 2d 335, 344 (S.D.N.Y. 2007).

The Second Circuit set forth the standards governing the appointment of counsel in *pro se* cases in *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997), *Cooper v. A. Sargent Co.*, 877 F.2d 170, 172 (2d Cir. 1989), and *Hodge v. Police Officers*, 802 F.2d 58, 60–62 (2d Cir. 1986). These cases direct the district courts to “first determine whether the indigent’s position seems likely to be of substance,” *Hodge*, 802 F.2d at 61, and then, if this threshold is met, to consider “secondary criteria,” including the *pro se* litigant’s “ability to obtain representation independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity.” *Cooper*, 877 F.2d at 172; accord *Hendricks*, 114 F.3d at 392 (quoting *Hodge*, 802 F.2d

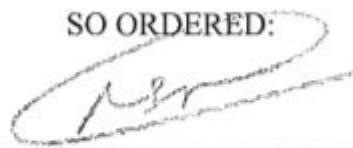
at 61–62). “Even where the claim is not frivolous, counsel is often unwarranted where the indigent’s chances of success are extremely slim,” and the Court should determine whether the *pro se* litigant’s “position seems likely to be of substance,” or shows “some chance of success.” *Hodge*, 802 F.2d at 60–61.

With that in mind, Plaintiff’s instant request for *pro bono* counsel cannot be granted at such an early stage in the litigation. The docket sheet for this case indicates that not only was this case filed less than one year ago, but also that Defendant has yet to be served with the summons and complaint. In other words, Defendant has not even made an appearance before the Court and had an opportunity to respond to Plaintiff’s complaint. Thus, at this early stage in the proceedings, the Court is unable to determine whether Plaintiff’s position shows a strong chance of success or that the legal issues in this case are particularly complex. Additionally, the Court cannot conclude at this time that Plaintiff is unable to handle the case without assistance, although this conclusion may change as the action progresses.

Therefore, being unable to determine whether any circumstances warrant the appointment of *pro bono* counsel at this early stage, the Court DENIES Plaintiff’s motion without prejudice with leave to renew at a later stage in the proceedings. The Clerk of Court is directed to terminate the motion at ECF No. 8 and to mail a copy of this Order to Plaintiff at her address as listed on ECF and to show proof of service.

Dated: September 12, 2022
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge